IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPEAL NO.505 OF 2003

The State of Maharashtra ...Appellant.
V/s.
Bhausaheb Balu Sarodhe & 2 Ors. ...Respondents.

Shri Y.S.Shinde, APP for the Appellant/State.

CORAM: J.H.BHATIA, J.
DATE : 13th June, 2007.

P.C.:

1. Heard Mr.Shinde the learned APP for the State. None for the respondents. Perused the relevant record.

2. The respondent nos.1 to 3 were original accused and were prosecuted for the offences punishable under Sections 498A, 323, 506 read with Section 34 of the I.P.C. on the basis of report lodged by Rohini, wife of the respondent no.1. The marriage had taken place on 12-5-1992 and out of this wedlock, they have also one daughter. According to the complainant, she was treated well for about 5-6 months and thereafter, the respondents began to ill-treat her. Before she went to her parent’s house for delivery, the respondents told her that she should come back only if male child is born and in case, a daughter is born, she should also bring an amount of Rs.50,000/- otherwise she need not come.

She gave birth to a female child and sometimes in the month of August, 1993, naming ceremony of the child was held at her parent's place. In spite of invitation, respondents did not turn up for the said ceremony. They sent a message for payment of Rs.50,000/- before they could attend the function. As the demand was not satisfied, they did not attend the function. However, after some days the complainant was sent to her husband's house by her parents. According to her, some payment was also made but full payment was not made. According to her on 11-11-1999, the respondents had beaten her and about that she had sent a chit to her parents through her brother's friend. Afterwards she was driven out from the house on the same day and since then she was living with her parents. She lodged a report with police on 6-12-1999 and after investigation, charge-sheet came to be filed against all the three accused. It may be noted that accused no.2 is her mother-in-law and no.3 is her sister-in-law. After hearing the evidence, the learned trial Court acquitted all the three accused holding that alleged demand was made in the year 1993 while report was lodged in December, 1999. The learned trial Court, in view of certain admissions, came to a conclusion that the complainant was not living with her husband and other in-laws since 1993. In the result, her allegation about

beating her on 11-11-1999 was also disbelieved. On account of delay of more than 6 years in lodging the report, the learned Magistrate acquitted all the three accused. Prosecution has filed this appeal and leave to prefer appeal is sought.

3. The evidence of the complainant, Rohini P.W.1 reveals that she had been to her parents place before birth of daughter. Her naming ceremony was held in August, 1993. Her husband and other in-laws did not attend the ceremony on account of her failure to make the payment. She deposed that after some days, she was sent to her husband' house but shortly thereafter she went to some pilgrimage or 'yatra' alongwith her parents. She admitted in her evidence that her daughter was admitted in Angel English Medium School where she is presently residing. In the school her residential address is also of Loni Kalbhor in Taluka: Haveli. It is the village of her parents. Accused persons are residents of village:Fursungi, Taluka: Haveli. It revealed that since 1997 she was not living with her husband. To another question, she deposed that she was not aware if in the year 1994 or so, her husband had purchased a new scooter. In view of this, the learned trial Court came to a conclusion that she must not be living with her husband since 1993. If she would be

living with her husband, she could not be unaware if a new vehicle was purchased by her husband during that period.

4. In view of above two admissions, there is a reason to believe that the complainant was not living with her husband and other in-laws since 1993 or 1994. Report was lodged in December, 1999. It appears that prior to November, 1999, she was living at Loni Kalbhor and she was also in service. It is difficult to believe that on 11-11-1999, she was living with her husband and other in-laws and on that day she was beaten. Her brother is working in police department. There is no independent evidence to corroborate testimony of the complainant and there is a delay of about 6 years in making a complaint about the illegal demand of Rs.50,000/-. There is no plausible explanation for such delay. In such circumstances, I find no justification to grant leave to prefer appeal against the acquittal.

5. In the result, leave to prefer appeal refused. Appeal stands dismissed.

(J.H.Bhatia,J.)